



California Regional Water Quality Control Board

Los Angeles Region

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Jack Marshall
Unocal Corporation
376 S. Valencia Avenue
Brea, CA 92823

CONDITIONAL CERTIFICATION FOR "AFTER THE FACT" ACTIVITIES AT THE CANYONS PROJECT (CORPS' PROJECT NO. 2001-01399-PJF), UNNAMED DRAINAGES AND BREA CANYON, TRIBUTARIES TO ARROYO SIMI, CITY OF SIMI VALLEY, VENTURA COUNTY (FILE NO. 02-098)

Dear Mr. Marshall:

In accordance with §3855 of Title 23 of the California Code of Regulations, an application for a Clean Water Act §401 Water Quality Certification shall be filed with the Regional Board Executive Officer in advance of any discharge. The California Regional Water Quality Control Board, Los Angeles Region (Regional Board), notes that your application request, on behalf of Unocal Corporation (the-Applicant), includes "after the fact" activities that were conducted without the required prior certification. Activities involved the installation of access roads and the associated grading activities and vegetation removal within several drainages in association with geotechnical testing. In recognition of our inability to appropriately characterize the pre-project conditions, we have increased the mitigation ratio component of your certification to ensure that we have addressed all the impacts associated with your project. The Regional Board expects that all future violations will be avoided and that any impending projects involving a discharge will be fully authorized prior to commencement of work activities. Any future violations may require a mitigation ratio of up to 7:1 and potential civil liabilities of \$10,000 per day.

Your application was deemed complete on October 31, 2002.

I hereby certify that any discharge from The Canyons Project, as described in Attachment A, if performed in accordance with all applicable water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region* (1994), and in accordance with the conditions specified in Attachment B, will comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act.

California Environmental Protection Agency

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<http://www.swrcb.ca.gov/news/echallenge.html>***



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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

The Applicant shall be liable civilly for any violations of this certification in accordance with the California Water Code. This certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits. Finally, this certification does not foreclose the imposition of appropriate penalties for failure to obtain this certification prior to commencement of work.

Should you have questions concerning this certification action, please contact Jason Lambert, Section 401 Program, at (213) 576-5733.

[Original Signed By:]

[November 22, 2002]

Dennis A. Dickerson
Executive Officer

Date

DISTRIBUTION LIST

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ATTACHMENT A

Project Information File No. 02-098

1. Applicant: Jack Marshall
Unocal Corporation
376 S. Valencia Avenue
Brea, CA 92823
Phone: (714) 577-1691 Fax: (714) 577-1717
2. Applicant's Agent: Sherri Cohen
Vandermost Consulting Services
27312 Calle Arroyo
San Juan Capistrano, CA 92675
Phone: (949) 489-2700 ext. 206 Fax: (949) 489-0309
3. Project Name: The Canyons Project
4. Project Location: City of Simi Valley, Ventura County
Longitude: 118.792°; Latitude: 34.286°
5. Type of Project: "After the Fact" access grading for geotechnical testing
6. Project Description: *Purpose:* This is an "After-the-Fact" certification for access roads that were installed within several drainages in association with geotechnical testing that was detected on-site during a May 16, 2002 site visit by Regional Board staff. The Unocal Corporation owns the 2,834-acre canyon site, and was conducting geotechnical testing for a proposed future development.

Description: Geotechnical boring samples were taken in April and May of 2002. The impacts that were associated with this project are a result of the grading of access roads within several waters of the State by the geotechnical company in order to access the geotechnical sites.
7. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 6 and 33 (Permit No. 2001-01399-PJF)

ATTACHMENT A

Project Information File No. 02-098

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| 8. Other Required Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement (Notification No. R5-2002-0245) |
| 9. California Environmental Quality Act (CEQA) Compliance: | The proposed project is Categorically Exempt from CEQA pursuant to the CEQA Guidelines, Section 15304 (Minor Alterations to Land). |
| 10. Receiving Water: | Unnamed drainages and Brea Canyon, tributaries to Arroyo Simi (Hydrologic Unit No. 403.67) |
| 11. Designated Beneficial Uses: | MUN, IND, GWR, FRSH, REC-1, REC-2, WARM, and WILD |
| 12. Impacted Waters of the United States: | Federal jurisdictional wetlands: 0.021 temporary acres
Non-wetland waters (vegetated streambed): 0.049 temporary acres |
| 13. Dredge Volume: | None |
| 14. Related Projects Implemented/to be Implemented by the Applicant: | The Applicant has identified plans for implementation of commercial and residential development in the future. |
| 15. Avoidance/Minimization Activities: | <p>The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:</p> <ul style="list-style-type: none">• Visual monitoring of runoff shall be conducted to detect erosion;• Trash and geotechnical related solid waste shall be deposited into a covered receptacle to prevent contamination of rainwater and dispersal by wind; and |

ATTACHMENT A

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- Fuels, oils, solvent, and other toxic materials will be stored in accordance with their listing and are not to contaminate the soil and surface. All approved storage containers are to be protected from the weather. Spills be cleaned up immediately and disposed of in a proper manner. Spills may not be washed into the drainage system.

16. Compensatory Mitigation:

The Applicant has proposed to and shall enhance 0.37 acres of riparian habitat onsite. In addition, the Applicant has proposed to and shall remove 0.60-acres of non-native vegetation (Tree of Heaven) from the project site.

See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.

ATTACHMENT B

Conditions of Certification File No. 02-098

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement.
2. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.
3. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the state.
4. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater

ATTACHMENT B

Conditions of Certification File No. 02-098

- level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
5. The Applicant shall restore all areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the state. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. The Applicant shall implement appropriate Best Management Practices to control erosion and runoff from areas associated with this project.
 6. The Applicant shall provide COMPENSATORY MITIGATION to offset the combined temporal loss of **0.07 acres** waters of the United States and Federal jurisdictional wetland by restoring jurisdictional habitat at a minimum 5.3:1 area replacement ratio (0.37 acres). Additionally, the Applicant shall provide 0.60 acres of upland habitat enhancement associated with the removal of the non-native Tree of Heaven. The location of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude.
 7. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** documenting the success of all restoration and mitigation efforts, including, percent survival by plant species and percent cover. The reports shall include discussion of any monitoring activities and exotic plant control efforts. Representative photographs from designated stations shall be included in the reports. The reports shall be submitted by **January 1st** of each year for a period of **five (5) years** after planting.
 8. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **02-098**. Submittals shall be sent to the attention of the Nonpoint Source Unit.
 9. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
 10. *Enforcement:*

ATTACHMENT B

Conditions of Certification

File No. 02-098

- (a) In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
- (b) In response to a suspected violation of any condition of this certification, the State Water Resources Control Board (SWRCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this certification, the SWRCB may add to or modify the conditions of this certification as appropriate to ensure compliance.